c of 100/-

(3)

IN THE HIGH COURT OF JUDICATURE, AT BILASPUR (C.G.)

W.P. NO. 1064/2002

PETITIONER : Ramsurat s/o Badri, aged about 54 years
Occupation - Loader cum dresser,
B. Seam Colliery S.E.C.L., Hasdeo area,
Distt. Korea (C.G.)

P. R. No. 1089/02
Presented by Shri K.K. Verma
dated 9.10.02

VERSUS

RESPONDENTS : 1. Chief General Manager, S.E.C.L.
Hasdeo area, Distt. Korea (C.G.)
2. Deputy Chief Personnel Manager,
Hasdeo area, Distt. Korea (C.G.)
3. Manager, Jhagrakhand Sub-Area,
B.Seam Colliery S.E.C.L. ,
Hasdeo area, Distt. Korea (C.G.)

Received copy
22/10/02
for the resp.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA -:

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

63

आदेश पत्रक

मामला क्रमांक WP 1054/02 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

7-5-2004

Shri K.N. Nande, counsel for the petitioner.

Shri H.B. Agrawal, counsel for respondents.

The petitioner has preferred this writ petition under Articles 226/227 of the Constitution of India challenging the letter dated 4-1-2002/8-1-2002 sent by the Manager, Jhagrakhand Sub Area B. Seam, Colliery, Hasdeo Area, District Korea whereby the petitioner was informed that he will be retiring w.e.f. 30th June 2002.

The petitioner's petition is that he was appointed as Loader cum Dresser under the office of the Manager, Jhagrakhand Sub-Area, B. Seam, Colliery, S.E.C.L., Hasdeo Area, District Korea. The petitioner is educated up to 10th standard and he had passed the High School Examination in the year 1964 conducted by the Board of High School and Intermediate Education U.P. and in the said certificate his date of birth is recorded as 12-7-1948. Copy of the said certificate is Annexure-P.

The petitioner had studied in Veni Madhav Gopi Nath Inter College 'Bakhira-Basti'. A character certificate was also issued by the Principal of the said College on 23-7-99, copy of the same is Annexure-P/1 in which also his date of birth is recorded as 12-7-48. In the said school the petitioner studied from the year 1961-62 to

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(64)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

1965-66. Scholar Register Form and Transfer Register Form issued by the said school is Annexure-P/3. The incorrect date of birth of the petitioner was recorded by the respondents in his service records. The petitioner was shocked after receiving the letter from the Manager that he will be retiring on 30th June 2002. Incorrect date of birth has been recorded in the service record and which has been shown as 1-7-1942 whereas, in fact, the petitioner's date of birth is 12-7-1948.

The petitioner made representations Annexures-P/7, P/8 & P/9 but the respondents are not prepared to consider the representation of the petitioner, therefore, the notice dated 4-1-2002 be quashed.

Return has been filed on behalf of the respondents in which it has been mentioned that the date of birth was recorded as per the statement of the petitioner himself, therefore, he cannot contend that his date of birth was recorded incorrectly. The petitioner was aged 29 years at the time of entering into the service. The opportunity of age determination was given in the year 1987 but the petitioner had not availed and he remained silent. Therefore, now, he cannot be allowed to challenge the order. His correct date of birth was mentioned in the Annexure-R/2 dated 15-7-87. The T.C. was issued at the will of guardian in the year 1967 while second T.C. was

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(65)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

given on 24-11-2001, in column of date of birth in word "eight" there is overwriting, it can be inferred that while writing two "Eig" has been written omitting "o", therefore, the genuineness of document is doubtful. The date of birth of the petitioner is 1-7-42, which was signed by the petitioner in his service record; therefore, the petition is liable to be dismissed.

I have heard the learned counsel for the parties.

Learned counsel for the petitioner submitted that on 15-7-87 the petitioner was required to give information regarding the date of birth and other particulars and form was served upon him and on the same day he submitted that form after filling the same and he kept copy of the same with him which is Annexure-P/2 in which he filled his date of birth as 12-7-48. Counsel further submitted that as far as Anenxure-R/2 is concerned, in that form the date of birth of the petitioner is mentioned as 1-7-42, as the same was filled by the respondents and not by the petitioner and that too without knowledge of the petitioner.

On the other hand, Mr. Agrawal counsel for respondents submitted that at the time of preparation of the service record the petitioner had not submitted his matriculation certificate and the same was received by the petitioner on 15-5-2002 and the petition

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(66)

आदेश पत्रक

मामला क्रमांक ..... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

was filed on 20-5-2002 after taking this document. He further submitted that in Form No.B, the service record of the petitioner, the date of birth is recorded as 1-7-42.

Having heard the learned counsel for the parties, I have perused the records. A perusal of the records shows that the date of birth entered in Form No.-B and Annexure-R/2 are entered by the concerned employee of the respondents and in contradiction of that the petitioner has submitted his document regarding his educational qualification and in scholar register and transfer register Form the date of birth is recorded as 12-7-48 and the same date of birth is recorded in the High School Certificate.

Looking to the above contradictory record submitted by the parties, there was dispute regarding the date of birth and on receiving the notice by the petitioner he made representations, but to no avail. In this case, the respondents ought to have referred the matter as per clause-B-(ii) of Instruction No.76 to the Age Determination Committee. In order to ascertain the correct date of birth of the petitioner the proper course is that the matter should be referred to the Age Determination Committee, as prima facie genuineness of the matriculation certificate and transfer certificate cannot be doubted.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(67)

आदेश पत्रक

मामला क्रमांक.....**सन्** **200**

.....**विरुद्ध**.....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In the result, the writ petition is allowed. The respondents are directed to refer the matter of the petitioner to the Age Determination Committee and the Age Determination Committee shall decide the age of the petitioner after going through the records and after getting him medically examined within a period of 3 months from today and the decision taken by the Age Determination Committee shall be final. It is made clear that if the petitioner succeeds in contention regarding his date of birth i.e. 12-7-1948 then he will be entitled for all the benefits as per this Court's order dated 28-6-2002. Original certificates submitted the petitioner and respondents be returned to respective parties in a sealed cover. With the directions aforesaid, the petition is disposed of. Parties are entitled for certified copy of this order. **Sd/-** **L.C. Bhadoo** **Judge**	

Barve*

[पीछे देखिये